

Rowena Wagner
Plaintiff

CIVIL ACTION NO. 04-264 ERIE
Judge Sean J. McLaughlin

vs.

ELECTRONICALLY FILED

Crawford Central School District, et. al.
Defendants

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

AND NOW, this 24th day of July, 2006, pursuant to Rule 56 of the Federal Rules of Civil Procedure (Civ. R.), Plaintiff Rowena Wagner moves for the entry of judgment against Defendants Crawford Central School District, Crawford Central School Board, Michael E. Dolecki and Charles E. Heller, III, or in the alternative, for the denial of Defendants' Motion for Summary Judgment. In support of this motion, Plaintiff incorporates herein an accompanying Statement of Material Facts, Supporting Exhibits and a Memorandum of Law.

Civ. R. 56 provides for the granting of a Motion for Summary Judgment upon all or some of the causes of actions pled where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law.

While elaborated upon by incorporating documents, Plaintiff's motion is based on the following:

1. This lawsuit is based upon three (3) distinct employment discrimination actions by defendants against Plaintiff manifesting a pattern of discrimination on the basis of Plaintiff's race (Asian) and national origin (Filipino).
2. The three (3) actions involved the summary dismissal of Plaintiff in December of 2002 from a substitute teaching assignment, the refusal to hire Plaintiff as a long-term substitute and as a full-time permanent teacher, and retaliatory actions taken against plaintiff as a result of her filing an employment discrimination complaint with the Pennsylvania Human Relation Commission in February 2003 and in this court in September 2004.
3. Plaintiff lawsuit rest upon Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. section 2000e, et. seq., sections 1981 and 1983 of the Civil Rights Act of 1866, as amended, 42 U.S.C.A. sections 1981 and 1983 and the Pennsylvania Human Relations Act, 43 P.S. section 951 et. seq.

4. Pursuant to the PA School Code and implementing regulations, Plaintiff obtained certification as an elementary school teacher in 2001, having graduated with a Bachelor of Science Degree in Education in 2000 from Edinboro University of Pennsylvania. Plaintiff has sought to become a full-time permanent teacher with Defendant Crawford Central School District. She has also sought long-term substituting positions. Plaintiff has been unsuccessful.

5. The Defendants has advanced various reasons for their refusal to hire plaintiff, whether as a long-term substitute or full-time teacher, but an analysis of the facts consistent with the framework set forth by the U. S. Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct.1817, 36 L.Ed.2d 668 (1973), Texas Department of Community Affairs. v. Burdine, 450 U.S. 248, 101 S.Ct. 1089, 67 L. Ed.2d 207 (1981), and their progeny will establish that each reason was a pretext for discrimination.

6. Similarly a review of the facts consistent with the recent U.S. Supreme Court decision in Burlington Northern & Santa Fe Railway Co. v. White, 548 U.S. ____ (2006) will establish defendants continuing refusal to hire plaintiff, either as a long-term substitute or full-time teacher, is in retaliation for plaintiff's effort to protect herself from discrimination.

7. Alternatively, based upon the record established in this case as a result of extensive discovery by the parties, plaintiff can convince a fact-finder, by a preponderance of the evidence, that those reasons advanced by defendants for their actions are mere pretext for their unlawful actions.

WHEREFORE, Plaintiff respectfully request that the Court grant her Motion for Summary Judgment, enter judgment in her favor and against the Defendants, Crawford Central School District, Crawford Central School Board, Michael E. Dolecki and Charles E. Heller, III, or in the alternative, schedule this matter for trial.

Respectfully submitted,

/s/Edith Benson

and

/s/Caleb L. Nichols

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**Rowena Wagner
Plaintiff**

vs.

**CIVIL ACTION NO. 04-264 ERIE
Judge Sean J. McLaughlin**

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**Crawford Central School District, et. al.
Defendants**

ORDER

AND NOW, this _____ day of _____, 2006, upon consideration of Plaintiff's Motion for Summary Judgment and accompanying memorandum of law and after reviewing the evidence and pleadings, it is hereby ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion for Summary Judgment is GRANTED in its entirety.

Sean J. McLaughlin, U.S. District Judge